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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,683	01/14/2004	Jeannette Whitcomb	11068-078-999	4994

7590 10/04/2006

JONES DAY
222 East 41st Street
New York, NY 10017

EXAMINER

PARKIN, JEFFREY S

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,683

Applicant(s)

WHITCOMB, J.

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 73-105 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 73-105 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Serial No.: 10/758,683
Applicant: Whitcomb, J.

Docket No.: N/A
Filing Date: 01/14/2004

Restriction Requirement

35 U.S.C. § 121

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- a. Group I, claim(s) 75-77, drawn to a method for assessing the effectiveness of non-nucleoside reverse transcriptase inhibitor antiretroviral therapy (NNRTI) by evaluating plasma samples for mutations at codon 236 in the HIV reverse transcriptase (RT), classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.
- b. Group II, claim(s) 78-82, drawn to a method for assessing the effectiveness of NNRTI therapy by evaluating plasma samples for mutations at codon 225 in the HIV RT, classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.
- c. Group III, claim(s) 83-89, drawn to a method for assessing the effectiveness of NNRTI therapy by evaluating plasma samples for mutations at codon 190 in the HIV RT, classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.
- d. Group IV, claim(s) 90-94, drawn to a method for assessing the effectiveness of NNRTI therapy by evaluating plasma samples for mutations at codon 188 in the HIV RT, classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.
- e. Group V, claim(s) 95-97, drawn to a method for assessing the effectiveness of NNRTI therapy by evaluating plasma samples for mutations at codon 108 in the HIV RT, classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.
- f. Group VI, claim(s) 98-102, drawn to a method for assessing the effectiveness of NNRTI therapy by evaluating plasma samples for mutations at codon 106 in the HIV RT, classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.
- g. Group VII, claim(s) 103-105, drawn to a method for assessing the effectiveness of NNRTI therapy by evaluating plasma samples for mutations at codons 106 and 227 in the HIV RT,

classified in class 435, subclasses 5 and 91.2, and class 536, subclasses 27.72 and 24.33.

The inventions are distinct, each from the other because of the following reasons:

Unrelated Inventions

Inventions I-VII are all unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, each of the identified methodologies is directed toward a different scientific objective that employs different reagents. Accordingly, separate searches will be required for group.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter, and require separate searches, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. § 1.143). Applicant is also advised that the claims should be amended to reflect the election, where necessary.

Correspondence

The Art Unit location of your application in the Patent and Trademark Office has changed. To facilitate the correlation of related papers and documents for this application, all future correspondence should be directed to **art unit 1648**.

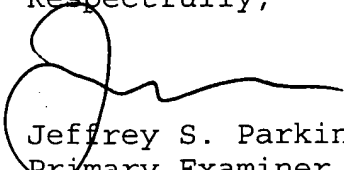
Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (571) 272-0908.

The examiner can normally be reached Monday through Thursday from 10:30 AM to 9:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Bruce R. Campell, Ph.D., can be reached at (571) 272-0974. Direct general status inquiries to the Technology Center 1600 receptionist at (571) 272-1600. Informal communications may be submitted to the Examiner's RightFAX account at (571) 273-0908.

Applicants are reminded that the United States Patent and Trademark Office (Office) requires most patent related correspondence to be: a) faxed to the Central FAX number (571-273-8300) (updated as of July 15, 2005), b) hand carried or delivered to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), c) mailed to the mailing address set forth in 37 C.F.R. § 1.1 (e.g., P.O. Box 1450, Alexandria, VA 22313-1450), or d) transmitted to the Office using the Office's Electronic Filing System. This notice replaces all prior Office notices specifying a specific fax number or hand carry address for certain patent related correspondence. For further information refer to the Updated Notice of Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence, and Exceptions Thereto, 1292 Off. Gaz. Pat. Office 186 (March 29, 2005).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,



Jeffrey S. Parkin, Ph.D.
Primary Examiner
Art Unit 1648

29 September, 2006